

## Article 2.

### General Administrative Officers.

#### **§ 127A-16. Governor as commander in chief.**

(a) The Governor shall be commander in chief of the militia and shall have power to call out the militia to execute the laws, secure the safety of persons and property, suppress riots or insurrections, repel invasions and provide disaster relief.

(b) The Governor shall have the additional power, subject to the availability of funding, to place individuals, units, or parts of units of the North Carolina National Guard in a State Active Duty status to assist with the planning, support, and execution of activities connected with the swearing in and installation of the Governor and other members of the Council of State. (1917, c. 200, s. 11; C.S., s. 6799; 1975, c. 604, s. 2; 1999-442, s. 1.)

#### **§ 127A-17. Commander in chief to prescribe regulations.**

The commander in chief shall have the power and the duty, from time to time, to issue orders and to prescribe regulations relating to the organized and unorganized militia that are necessary for the militia at all times to conform to the federal requirements of the United States government relating thereto. (1917, c. 200, s. 36; C.S., s. 6800; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

#### **§ 127A-17.1. Confidentiality of National Guard records.**

Notwithstanding any provision of Chapter 143B of the General Statutes, no records of the North Carolina National Guard in the Department of Public Safety shall be disclosed or used for any purpose except for official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this Chapter shall convert records which are the property of the federal government into State property. (1977, c. 70, s. 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

#### **§ 127A-18. Personal staff of Governor.**

The Governor may detail not more than 10 active North Carolina National Guard members and two active naval militia members who shall in addition to their regular duties, perform the duties of aides-de-camp on the personal staff of the Governor. (1917, c. 200, s. 12; C.S., s. 6801; 1959, c. 218, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

#### **§ 127A-19. Adjutant General.**

(a) The military head of the militia shall be the Adjutant General who shall hold the rank of major general with federal recognition at time of appointment or attain the rank of major general pursuant to this section. The Adjutant General shall be appointed by the Governor in the Governor's capacity as commander in chief of the militia, in consultation with the Secretary of Public Safety, and shall serve at the pleasure of the Governor. The Adjutant General, while holding this office, shall be a member of the active North Carolina National Guard. If an appointed Adjutant General does not attain the rank of major general with federal recognition within a reasonable period of time from the date of appointment,

the Governor shall replace the Adjutant General with an appointee who meets the criteria in this section. A "reasonable period of time" shall take into account time in grade requirements for promotion or promotions and administrative periods necessary to complete the promotion process.

(b) In order to be eligible for appointment as Adjutant General, a person shall be a resident of the State of North Carolina and meet all of the following requirements:

- (1) The person shall have a total of at least 10 years of commissioned service in any component or components of the Armed Forces of the United States.
- (2) The person shall have a minimum of three years commissioned service in the Army or Air National Guard within the six-year period previous to the appointment date.
- (3) The person, at the time of appointment, shall be one of the following:
  - a. A major general with federal recognition or who is eligible for federal recognition.
  - b. A brigadier general with federal recognition or who is eligible for federal recognition and who is eligible for promotion to major general with federal recognition.
  - c. A colonel with federal recognition or who is eligible for federal recognition; who is eligible for promotion and federal recognition as a brigadier general; and who is eligible for promotion to major general with federal recognition.
- (4) The person shall have completed all service school or other criteria for promotion to general officer with federal recognition.
- (5) The person shall have a minimum of 12 months in command of either (i) an Army or Air National Guard unit or (ii) a unit in any component of the Armed Forces of the United States.

(c) Subject to the approval of the Governor and in consultation with the Secretary of Public Safety, the Adjutant General may appoint:

- (1) A deputy adjutant general, who may hold the same rank as the Adjutant General.
- (2) Two assistant adjutants general for the Army National Guard and an assistant adjutant general for the Air National Guard, each of whom may hold the rank of brigadier general.

The appointees authorized by this subsection shall serve at the pleasure of the Governor. The Adjutant General may also employ staff members and other personnel as authorized by the Secretary and funded. (1917, c. 200, s. 14; C.S., s. 6802; 1925, c. 54; 1939, c. 14; 1949, c. 1225; 1959, c. 218, s. 2; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1979, c. 481; 1995, c. 122, s. 1; 2005-314, s. 1; 2008-162, s. 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a); 2014-100, s. 16B.7; 2014-106, s. 1.)

#### **§ 127A-20. Administrative and operational relationships of the Adjutant General.**

In all administrative and operational matters affecting the militia while under State control, the Adjutant General shall be responsible to and subject to the direction and supervision of the Secretary of Public Safety. (1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s. 19.1(g).)

**§ 127A-21. United States property and fiscal officer.**

(a) The Governor of the State, in consultation with the Secretary of Public Safety, shall appoint, designate, or detail, subject to the approval of the Secretary of the Army and the Secretary of the Air Force, a qualified commissioned officer of the North Carolina National Guard who is also a commissioned officer of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, to be the United States property and fiscal officer for North Carolina. If the officer is not on active duty, the President may order the officer to active duty, with the officer's consent, to serve as a property and fiscal officer.

(b) The status of the United States property and fiscal officer is that of a reserve commissioned officer of the United States Army or Air Force, as appropriate, on extended active duty and detailed for duty with the National Guard Bureau for administrative purposes. In the officer's capacity as United States property and fiscal officer, the officer will function under the direction of and cooperate fully with the State Adjutant General.

(c) The assumption and performance of duties and responsibilities, pay and allowances, and other personnel actions to include retention and retirement of an officer appointed and serving as the United States property and fiscal officer will be governed by regulations promulgated by the National Guard Bureau or pursuant to regulations promulgated by the secretary of the appropriate service. (1975, c. 604, s. 2; 1977, c. 70, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

**§ 127A-22. North Carolina property and fiscal officer.**

(a) Upon full mobilization of the North Carolina National Guard into federal service to the extent that the functions of a United States property and fiscal officer no longer exist or are authorized under federal statutes, the Governor of the State, in consultation with the Secretary of Public Safety, may appoint, designate or detail a qualified individual to serve at the pleasure of the Governor as the North Carolina property and fiscal officer for any composition of a nonfederally recognized State National Guard or State defense militia organized under the provisions of this Chapter.

(b) In consideration of the North Carolina property and fiscal officer's services for the responsibility, care, utilization, and issue of State or federal facilities and property, under the jurisdiction of the State of North Carolina, the officer shall receive from the State a just and proper salary as authorized by the Governor; the salary to constitute a charge upon appropriations made to the Department of Public Safety.

(c) The North Carolina property and fiscal officer shall be an employee of the Department of Public Safety. The officer shall be required to give good and sufficient bond to the State, the amount thereof to be determined by the Governor, for the faithful performance of duties and for the safekeeping and proper distribution of the funds and property entrusted to the officer's care. The officer shall receipt for and account for all funds and property allotted to the officer's custody from the appropriation for military purposes by State and federal agencies, and shall make returns and reports through the Secretary of Public Safety concerning the property and funds as required by the Governor

or State laws. (1917, c. 200, ss. 24, 25; C.S., ss. 6804, 6805; 1929, c. 317, s. 1; 1957, c. 136, s. 3; 1963, c. 1016, s. 2; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

**§ 127A-23. Commissions for commandants and officers at qualified educational institutions.**

The Governor of North Carolina is authorized to appoint and commission, as staff officers of the North Carolina unorganized militia, the officers of any university, college, academy or other educational institution which qualifies as provided in this section. Any university, college, academy or other educational institution shall be qualified under this section when the institution has been regularly incorporated under and by virtue of the laws of North Carolina; the institution, as a part of its courses of study, regularly teaches military science and tactics; the Department of Defense at Washington, D.C., has detailed an officer of the Armed Forces of the United States as professor or assistant professor of military science and tactics; the institution has been designated as qualified by the secretary of the appropriate service and has been made a unit of the Senior or Junior Reserve Officers' Training Corps, or the institution, not having a unit of the Reserve Officers' Training Corps, has been approved and authorized by the Secretary of Defense to participate in the National Defense Cadet Corps Training Program or other military training programs under Title 10, United States Code, sections 3540 and 4651.

Any qualified institution desiring the appointment of officers in the North Carolina unorganized militia shall make application to the Governor setting forth all requisite facts as to its qualifications, the names of the persons to be commissioned, the rank desired for each, and the person's position at the institution. The application shall be signed by the chancellor, president, superintendent or other presiding official, under the seal of the institution. Upon receipt of the application, the Governor may appoint and commission the officers of a qualified institution as follows: the chancellor, president, superintendent or other presiding official, as colonel; the vice-president, principal or other officer second in authority, as major; the professors and members of the faculty, as captains. The persons so commissioned shall have no connection with the North Carolina National Guard or other military forces of the State, nor shall they exercise any military authority other than in the discharge of their duties at their respective institutions. The commissions issued under this section may be terminated at the will of the Governor. (1919, c. 265, ss. 1, 2, 3; C.S., s. 6812; 1929, c. 61, s. 1; 1963, c. 1095; 1973, c. 476, s. 128; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

**§§ 127A-24 through 127A-28. Reserved for future codification purposes.**